IN THE UNITED STATES DISTRICT COURT
THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IN THE MATTER OF THE COMPLAINT OF:	)
	) Case No.: 4:15-cv-01111
CENTRAL CONTRACTING & MARINE, INC.,	)
for Exoneration from, or Limitation of, Liability.	)

ANSWER TO FIRST AMENDED COMPLAINT
SEEKING EXONERATION FROM, OR LIMITATION OF, LIABILITY AND CLAIM

COME NOW Claimant Bryan Adams, by and through his undersigned counsel, and for his Answer to Plaintiff's Complaint ("the Complaint") and for his claim against Plaintiff, states as follows:

First Defense

The allegations of the Complaint fail to state a claim upon which relief may be granted.

Second Defense

The accident of July 16, 2015, was caused by the fault and negligence of Plaintiff, who had privity and knowledge of the unsafe, negligent and unseaworthy conditions of the M/V DANNY BRADFORD which caused the accident. Said privity and knowledge will act as a bar to limitation of, or exoneration from, liability herein.

Third Defense

The Limitation of Liability Act is not applicable to the instant case because, at all times pertinent herein, the M/V DANNY BRADFORD was operated in an unsafe, reckless and/or negligent manner by its owner-operator, Plaintiff, prior to and at the time of the accident. Furthermore, Central Contracting & Marine, Inc., as owner of the vessel, rendered the M/V DANNY BRADFORD "unseaworthy" through its acts and/or omissions in failing to man the vessel with a competent and adequately trained crew. The conduct, actions and/or inaction which proximately led to, or contributed to Claimant's damages took place with the privity and knowledge of the owner of the vessel involved, Central Contracting & Marine, Inc., and/or its constituent coventurers.

Fourth Defense

The events culminating in the Claimant's injuries were the direct result of the negligence, fault or want of due care on the part of the Plaintiff, and/or the unseaworthiness of the M/V DANNY BRADFORD, all of which were in the privity and knowledge of the owner of the vessel involved, Central Contracting & Marine, Inc., and/or its constituent coventurers, for which its Complaint for Exoneration From or Limitation of Liability should be denied.

Fifth Defense

Claimant further alleges in the alternative that, if limitation is found to apply, two classes of assets must properly be added to the Limitation Fund in this proceeding: (1) the proceeds of any Protection and Indemnity (P&I) insurance policy payable to insured Central Contracting & Marine, Inc., and/or its constituent coventurers related to the July 16, 2015, accident, and (2) the fair market value of all vessels owned by Central Contracting & Marine, Inc., and/or its constituent coventurers on July 16, 2015, and utilized in the transportation of cargo, pursuant to the federal maritime flotilla doctrine. The names, registration numbers, descriptions and valuations (via independent appraisals to be ordered by this Court) will have to be obtained through discovery in this matter, as this documentation is solely within the control of the Plaintiff.

Sixth Defense

Claimant reserves the right to contest the appraisal value of the vessel listed in the Plaintiff's Letter of Undertaking, their apparel, appurtenances, etc., and the adequacy of the security, and the request that this Court order an independent appraisal of the same, as well as any other vessels and/or equipment properly included in the Limitation Fund pursuant to the flotilla doctrine.

Seventh Defense

Plaintiff has failed to comply with the requirements of the Limitation of Liability Act, 46 U.S.C. §§ 181, *et seq.*, including, but not limited to, through their failure to deposit adequate and proper security, which will act to bar limitation of or exoneration from liability herein. Timely deposit of adequate security for the vessels identified in the Complaint for Exoneration From or Limitation of Liability is a mandatory statutory prerequisite to suit. Pursuant to Rule F(1) of the Supplemental Rules for Certain Admiralty and Maritime Claims, the proper limitation fund must be deposited at the time of filing. Plaintiff’s failure to deposit any limitation fund at the time of filing, instead offering merely to file a stipulation with a surety did not meet this standard. This caveat is unacceptable, as commitment of alternative security in lieu of the standard limitation fund should be unlimited by any contract terms between insurer and the Plaintiff’s insured, especially unstated ones.

ANSWER TO PLAINTIFF’S COMPLAINT

AND NOW, specifically reserving all defenses asserted herein, Claimant responds to the individual paragraphs of the Complaint for Exoneration From or Limitation of Liability, upon information and belief, as follows:

1. Admitted, solely regarding jurisdiction regarding a Plaintiff’s claim for limitation of liability. Denied regarding jurisdiction over any and all state law claims the Claimant possesses against the Plaintiff.

2. Admitted.

3. Claimant does not have adequate information to admit or deny this allegation, and therefore denies paragraph 3.

4. Claimant lacks information to admit or deny this allegation, and therefore denies the allegations in paragraph 4.

5. Denied.

6. Admitted.

7. Claimant admits that the M/V DANNY BRADFORD was being operated on the Mississippi River within the geographical boundaries of this district. Claimant is unaware whether the vessel will be within the jurisdiction of this Court during the pendency of this action.

8. Admitted.

9. Claimant lacks information to admit or deny the allegations in paragraph 9, and therefore deny same.

10. Denied.

11. Claimant lacks information to admit or deny the allegations in paragraph 11, and therefore deny same.

12. Admitted.

13. Claimant lacks information to admit or deny the allegations in paragraph 13, and therefore deny same.

14. Denied.

15. Claimant lacks information to admit or deny the allegations in paragraph 15, and therefore deny same.

16. Claimant denies that the M/V DANNY BRADFORD had a value that did not exceed the sum of Five Hundred Eighty-Five Thousand Dollars ($585,000.00). Claimant lacks

adequate information to determine whether the value of the pending freight for services was Four Thousand Seven Hundred Two Dollars ($4,702.00). As prayed for in Claimant’s defenses, the fair market value of the M/V DANNY BRADFORD and any and all vessels and freight should be determined by an independent appraiser appointed by this Court.

17. Claimant lacks information to admit or deny the allegations in paragraph 17, and therefore deny same.

18. Claimant admits that Plaintiff is claiming and seeks exoneration from liability, but for the reasons stated herein before, believe that this Court should dismiss this claim for exoneration and determine that Plaintiff is not entitled to exoneration from liability or damages.

19. Denied.

20. Denied.

21. Denied.

WHEREFORE, Claimant, being an individual and a deckhand of the M/V Danny Bradford who has suffered injuries and losses as a result of the unseaworthiness of the M/V DANNY BRADFORD or, alternatively, the Plaintiff’s negligent conduct in operating the M/V DANNY BRADFORD on July 16, 2015, thereby causing his injuries and damages, prays that the Complaint filed herein seeking exoneration from or limitation of liability, as well as any and all injunctions or restraining orders granted in this matter, be dismissed and dissolved, and that Claimant be permitted to litigate his claims in the Court of his choice, pursuant to the saving to suitors clause, 28 U.S.C. § 1333(1).

In the alternative, Claimant prays that Plaintiff be required to deposit the full security in the amount required by law under the flotilla doctrine, in default of which the exoneration/limitation complaint should be dismissed, and pending which, any injunction or restraining order should be dissolved.

CLAIMS

Now, in accordance with the provisions of Supplemental Rule F(5) of the Federal Rules of Civil Procedure, the Claimant avers, on information and belief, the facts upon which he relies in support of his claims:

Allegations Common to All Counts

1. The incident forming the basis of this litigation occurred on July 16, 2015.

2. Bryan Adams is a citizen and resident of Washington County Missouri.

3. Central Contracting & Marine is a Missouri corporation in good standing in the State of Missouri. At all relevant times, Central Contracting & Marine was the owner and operator of the M/V Danny Bradford which then or thereafter, assumed all liabilities of Bryan Adams' employment and was then and is now in the business of owning and operating towboats and barges upon the inland waterways of the United States, including the Mississippi River, and was and is doing business in the State of Missouri.

4. At all relevant times, Bryan Adams was acting within the course and scope of his employment with Central Contracting & Marine as a deckhand and member of the crew of the M/V Danny Bradford, which was at all times relevant a vessel in navigation.

Count I – JONES ACT

5. Bryan Adams, as a seaman, has claims under the provisions of 46 U.S.C., Section 688 et seq., commonly called the Jones Act.

6. On July 16, 2015, Bryan Adams, while in the performance of his duties, suffered injuries when the pilot lost control of the vessel and ultimately struck scaffolding which was hanging down from the bridge structure on the Missouri side of the Eads Bridge.

7. That materials and scaffolding fell down onto the tow and the M/V Danny Bradford, some of which struck Bryan Adams.

8. That shortly after the incident, Bryan Adams found the severed head and corpse of a person who had been working on the bridge structure.

9. That Central Contracting & Maritime, at said time and place, by and through its agents, servants and employees, was negligent in the following respects:

(a) It failed to provide Bryan Adams with a reasonably safe place to work;

(b) Plaintiff failed to man the vessel with a competent and adequately trained crew;

(c) The pilot of the M/V DANNY BRADFORD was not at his post or was on his cell phone as the vessel began to transverse the Eads Bridge;

(d) The pilot of the M/V DANNY BRADFORD failed to maintain proper control and steerage of the vessel, causing it to strike the scaffolding on the Eads Bridge;

(e) The pilot of the M/V DANNY BRADFORD failed to stay within the navigational channel of the Mississippi River while passing under the Eads Bridge;

(f) The M/V DANNY BRADFORD was operated in an unsafe, reckless and/or negligent manner by its owner both prior to and at the time of the collision;

(g) It failed to repair, maintain, inspect or otherwise remedy the broken, missing and defective flank rudders;

(e) All of the above was within the privity and knowledge of the owner of the vessel involved, namely Central Contracting & Marine, Inc.

10. That as a direct and proximate result of the aforementioned, Bryan Adams suffered severe emotional distress, including but not limited to suffering from post-traumatic stress disorder. Bryan Adams has sustained, and will in the future sustain, damages for medical bills and cost relating to medical treatment for his injuries. Bryan Adams has also suffered wage loss and will suffer wage loss in the future as he remains unable to return to work.

WHEREFORE, Claimants pray judgment against Plaintiff for such damages as are fair and reasonable, and as supported by the evidence, subject to any lawful, applicable and proven limitations on recovery, if any, costs of suit, and such other and further relief as the Court deems just and proper.

Count II - UNSEAWORTHINESS

11. Claimant, as a seaman, brings suit against the Plaintiff under the provisions of the General Maritime Law of the United States, so much of which is pertinent hereto, including the warranty of seaworthiness.

12. On July 16, 2015, Bryan Adams, while in the performance of his duties, suffered injuries when the pilot lost control of the vessel and ultimately struck scaffolding which was hanging down from the bridge structure on the Missouri side of the Eads Bridge.

13. That materials and scaffolding fell down onto the tow and the M/V Danny Bradford, some of which struck Bryan Adams.

14. That shortly after the incident, Bryan Adams found the severed head and corpse of a person who had been working on the bridge structure.

15. That Central Contracting & Maritime, at said time and place, by and through its agents, servants and employees, was negligent in the following respects:

(a) It failed to provide Bryan Adams with a reasonably safe place to work;

(b) Plaintiff failed to man the vessel with a competent and adequately trained crew;

(c) The pilot of the M/V DANNY BRADFORD was not at his post or was on his cell phone as the vessel began to transverse the Eads Bridge;

(d) The pilot of the M/V DANNY BRADFORD failed to maintain proper control and steerage of the vessel, causing it to strike the scaffolding on the Eads Bridge;

(e) The pilot of the M/V DANNY BRADFORD failed to stay within the navigational channel of the Mississippi River while passing under the Eads Bridge;

(f) The M/V DANNY BRADFORD was operated in an unsafe, reckless and/or negligent manner by its owner both prior to and at the time of the collision;

(g) It failed to repair, maintain, inspect or otherwise remedy the broken, missing and defective flank rudders;

(e) All of the above was within the privity and knowledge of the owner of the vessel involved, namely Central Contracting & Marine, Inc.

16. That as a direct and proximate result of the aforementioned, Bryan Adams suffered severe emotional distress, including but not limited to suffering from post-traumatic stress disorder. Bryan Adams has sustained, and will in the future sustain, damages for medical bills and cost relating to medical treatment for his injuries. Bryan Adams has also suffered wage loss and will suffer wage loss in the future as he remains unable to return to work.

WHEREFORE, Claimants pray judgment against Plaintiff for such damages as are fair and reasonable, and as supported by the evidence, subject to any lawful, applicable and proven limitations on recovery, if any, costs of suit, and such other and further relief as the Court deems just and proper.

Count III – MAINTENANCE AND CURE

17. Claimant, as a seaman, brings suit against the Plaintiff under the provisions of the General Maritime Law of the United States, so much of which is pertinent hereto, including the warranty of seaworthiness.

18. On July 16, 2015, Bryan Adams, while in the performance of his duties, suffered injuries when the pilot lost control of the vessel and ultimately struck scaffolding which was hanging down from the bridge structure on the Missouri side of the Eads Bridge.

19. That materials and scaffolding fell down onto the tow and the M/V Danny Bradford, some of which struck Bryan Adams.

20. That shortly after the incident, Bryan Adams found the severed head and corpse of a person who had been working on the bridge structure.

21. That at all times herein mentioned, Bryan Adams was in possession and control of the defendant.

22. That as a result of the above injuries, Bryan Adams has incurred extensive medical expenses of treatment and other services.

23. That Bryan Adams has not yet reached a point of maximum cure, and further medical expenses will be incurred in the future.

24. That the Plaintiff has failed to meet its duty under the General Maritime Law to provide its employee, Bryan Adams, with full and adequate maintenance and cure for said injuries.

25. That Plaintiff's failure is in contravention of Claimant's established maritime rights.

WHEREFORE, Claimants pray judgment against Plaintiff for such damages as are fair and reasonable, and as supported by the evidence, subject to any lawful, applicable and proven limitations on recovery, if any, costs of suit, and such other and further relief as the Court deems just and proper.

Prayer for Relief

WHEREFORE, Claimant demands judgment against the Plaintiff as follows:

(a) Economic and compensatory damages in an amount to be determined at trial;

(b) Damages for aggravating circumstances;

(c) Pre-judgment and post-judgment interest at the maximum rate allowable by law;

(d) Attorneys' fees and costs of litigation; and

(e) Such other and further relief available under all applicable state and federal laws and any relief the Court deems just and appropriate.

WILKINS SCHNELLER LAW, LLC

Attorneys for Claimants

By /s/Gerard B. Schneller
Gerard B. Schneller #38098
Kevin D. Wilkins #63318
1926 Chouteau Avenue
St. Louis, MO 63103
(314) 588-8000
(844) 272-6236 (Fax)
schneller@midwesttriallawyers.com

CERTIFICATE OF SERVICE

I hereby certify that on January 12, 2016, the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's CM/ECF electronic filing system upon all attorneys of record.

/s/Gerard B. Schneller